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February 3, 2006

Donna C. Gregg
Chief, Media Bureau
Federal Communications Commission
The Portals Building
445-12th Street, S.W.
Washington, D.C. 20554

Re: Negotiated Channel Arrangement
Station KFTY, Santa Rosa, CA (20051028ACZ)
Station KRON-TV, San Francisco, CA (20051031AAW)
Station WTFK-TV, Stockton, CA (20051031ADV)
Station WTVU(TV), Oakland, CA (20051031ABN)
Station WTNC-TV, Concord, CA (20051031ABG)
Station KVIE(TV), Sacramento, CA (20051020AAA)

Ex Parte Presentation
MM Docket 03-15

Dear Ms. Gregg:

The Northern California Educational Television Association (Association), licensee of public Station KIXE(TV), Redding, California, through its attorneys, hereby submits this ex parte presentation in connection with the above-referenced Negotiated Channel Arrangement (NCA). The sole purpose of this presentation is to address certain matters raised by KVIE, Inc. (KVIE) in "Reply Comments" filed in response to Comments filed by the Association regarding the NCA insofar as it proposes allotment of DTV Channel 9 to KVIE for use by public Station KVIE, Sacramento, California.

KVIE claims (Reply Comments, pp. 4-7) without a shred of specific evidence that Channel 6 is inferior. However, it should be noted that the licensee of Station WPVI-TV, Channel 6, Philadelphia, has opted following experimental operations to select its analog Channel 6 for DTV operation. Under the circumstances, it is incumbent on KVIE to demonstrate that Channel 6 is grossly inadequate for its use. A mere preference cannot be the basis for allowing interference to KIXE.


In the absence of any evidence that Channel 6 will not work, KVIE's comparison of interference to the NCA parties' service areas with that caused to KIXE by KVIE's proposed operation (Reply Comments, pp. 3-4) is irrelevant. KVIE's proposed operation violates the rule vis-à-vis KIXE's service area and comparisons to the service areas of other licensees are not germane. Notwithstanding KIXE's characterization, 4000+ persons is substantial in the context of the Association's service area.¹

Finally, contrary to KVIE's claim (Reply Comments, p. 9, fn. 16), the Association did not make "unauthorized" use of any engineering. No restrictions, oral or written, were placed on use of the document in question at the time it was furnished to the Association.

The Association respectfully requests that these comments be considered by the Commission in its evaluation of KVIE's proposed use of channel 9 for DTV purposes.

Respectfully submitted,

SCHWARTZ, WOODS & MILLER

By: 
Malcolm G. Stevenson

MGS/mkm

cc: Nazifa Sawez, FCC
NCA Parties

¹ In fact, the affected areas are rapidly growing in population. Further, the Association queries the actual impact on DTV receivers when they are receiving two Channel 9 signals at different levels from two different directions. In particular, we are advised by KIXE technical staff that, under certain weather conditions in the valley – specifically, cold weather inversion layers – KVIE's signal propagates much further than normal.